

IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. WJC No.448 of 2007
NITU KUMARI @ NITU DEVI & ANR
Versus
THE STATE OF BIHAR & ORS

8 25.8.2008 Heard the parties.

Petitioners have prayed for quashing of the S.K.Puri PS case no. 58 of 2007 registered for offences under sections 366/120B of the penal code.

Petitioner no.1 submits that allegation of her abduction and kidnapping against petitioner no.2 is false as she at her own sweet will left her house and married him. He further submits that petitioners are above the prohibitory age limit for marriage. Learned counsel representing the petitioners submits that as per his instruction, petitioners have got a child out of the said marriage. He further submits that the Apex court in the case of Lata Singh Vs the State of Uttar Pradesh and another, reported in 2006(3) PLJR 329 SC while quashing the Sessinos Trial arising out of the concerned FIR which related to alleged abduction of a girl by a boy observed that a major boy or a girl is free to marry or live with any one he or she likes. The aforesaid decision has been followed by this court in the case of Manorama Devi Vs the State of Bihar, reported in 2008 (1) PLJR 821 in which this court quashed the FIR lodged for offences under section 466A of the I.P.C. as during investigation police had found the age of the boy and the girl to be above 18 years.

Learned counsel appearing for the State submits that affidavit filed by petitioners in respect of their age and marriage are

not very convincing.

Having heard the parties, this court is of the view that petitioners should approach the I.O. of the case and produce all the documents including those annexured here in respect of their being a major and married. The I.O. would also record the 161 Cr.P.C. statement of petitioner no.1 who has been alleged by her mother to be abducted and kidnapped by petitioner no.2 without any further loss of time. I.O. will also get recorded her 164 Cr.P.C. statement. The I.O. thereafter would forthwith send his report to the leaned magistrate.

It is made clear that recording of statements would be completed within six weeks from today.

No coercive steps would be taken against the petitioners in S K Puri PS case no. 58 of 2007 pending in the court of the Chief Judicial Magistrate, Patna for six weeks.

Let this order be faxed to the court concerned at the cost of the petitioners.

The writ petition stands disposed of.

Shashi.

(S.P.Singh,J).